

LAKE COUNTY PLANNING BOARD
January 11, 2012
Lake County Courthouse, Large Conference Rm. (Rm 317)
Meeting Minutes

MEMBERS PRESENT: Bob Kormann, Lisa Dumontier (to 8 pm), Steve Rosso, Janet Camel, Jerry d'Aquin

STAFF PRESENT: Joel Nelson, LaDana Hintz, Robert Costa, Karl Smithback, Lita Fonda

Bob Kormann called the meeting to order at 7:00pm. Bob noted the selection of Board chair and vice-chair were postponed to next month.

Robert offered one correction to the Oct. minutes, where in the second paragraph of pg. 3, 'amphibian' needed a closing quotation mark. **Motion by Steve Rosso, and seconded by Jerry d'Aquin, to approve the Oct. 12, 2012 meeting minutes as corrected. Motion carried, 4 in favor (Bob Kormann, Steve Rosso, Janet Camel, Jerry d'Aquin) and one abstention (Lisa Dumontier).**

Motion by Steve Rosso, and seconded by Lisa Dumontier, to approve the Nov. 9, 2012 meeting minutes. Motion carried, 3 in favor (Bob Kormann, Steve Rosso, Lisa Dumontier) and two abstentions (Janet Camel, Jerry d'Aquin).

Public present: Mike Wilson, Christi Buffington, Rick & Judy Cothorn

LAKESHORE REGULATIONS UPDATE (7:04 PM)

LaDana Hintz presented the draft section. (See attachments to minutes in the January 2012 meeting file for draft section and written public comment received for this meeting.) She outlined that the old lakeshore regulations contained very little about vegetation management, which she showed on pg. 26 of the old regulations. It was difficult for landowners to deal with or staff to administer, since there wasn't much to go by. The draft was an attempt to find the balance between having too much regulations and having not enough regulation. She shared some pictures of good buffers, no buffer, and poor buffers. A hope was that some of the properties with no or poor buffer would come back in for review and would be redeveloped with conformance to the new regulations. She showed various pictures.

Bob asked what kept new vegetation in a buffer from washing away while it was taking root. LaDana answered it would probably be shielded with something, such as mulch or matting.

LaDana described that in conversation with Tiffany, this was along the lines of what Tiffany envisioned. LaDana drew attention to Tiffany's comments. Christi Buffington described comments she received. She began with those emailed from Peter Lesica at the U of M, who couldn't be here tonight. He sent her a fact sheet on Columbia River Crazy Weed, a rare plant occurring only along the Columbia River north of Spokane and on the shores of Flathead Lake. In a previous inventory, he found about a 1000 plants along Flathead Lake. Now, most are gone. This rare plant would be gone if something isn't done. These were found only within 20 yards of

the lakeshore in gravelly soil. Commercial seeds weren't available. The demonstration lakeshore buffer will be installed in spring of 2013, and they're considering collecting seeds of this rare legume from Wild Horse Island. They didn't know exactly how to propagate these seeds yet, but they would learn fast. In response to Janet's question on Virgil Dupuis, Christi said they were working with him on the demonstration mock up and with Monica Corneal. Janet noted the Tribes also had a nursery and raised native plants.

Jerry asked where the demonstration plot was. Christi described it as on private land just north of Kings Point. Mike Wilson would be removing the seawall there. Instead of putting in a new seawall, it would be bioengineered, following the new regulations, and with a buffer. They'd do a contractor training, and the contractors would actually be installing the buffer during the fieldwork portion.

LaDana returned to the policy section of the draft. Tiffany had suggested that they add a ground cover section, which was a good idea since it could be a different variety from trees, shrubs and grasses. Steve asked about placement, and LaDana referred to the first paragraph. LaDana noted she included some new definitions here in order to keep them in mind, since they'd been through the definition section previously.

LaDana highlighted that in tonight's meeting, the exact wordings didn't need to be hammered out. The idea was to find out thoughts on the concepts.

Steve observed that the word 'native' was used throughout. He wondered if the word 'natural' should also be used, in that to him, native species would be plants existing in this climate area but wouldn't necessarily be natural in all locations because of soil type, slope and so forth. Some species that could be considered native to NW Montana lakeshores could be invasive in some locations. Karl said the word 'indigenous' had been discussed. Christi said that did cover it, but there was a definition of native plants from the Montana Native Plant Society. Plants that may be from MT, from eastern MT for example, might be exotic in this area, which was in the native plant definition. LaDana described that she looked at that definition and also definitions from other jurisdictions. She was open to better suggestions. Jerry said the same native plant on a south-facing slope versus a north-facing slope within 15 yards of one another could be out of kilter. He had the same concern as Steve.

Christi referred to comments from a woman, Patty, at the Flathead Conservation District. She'd used the definition there that plants that are evolved and adapted to a [inaudible] specific location and have remained genetically unaltered [inaudible] then she went on to say that such plants were adapted to the regional climate etcetera. Christi hadn't forwarded Patty's comments, since she hadn't gotten permission to do so, but Patty did say Christi could share the comments. Christi referred also to a fact sheet from Peter Lesica. LaDana noted they didn't want native plants from all of western MT, since something from over by Missoula might not be adapted to here by the lake. Christi thought rather than listing out trees, shrubs, groundcover and grass in the last sentence of the first paragraph of section A (on policy), she would just say native plants, since this would also encompass sedges, brushes, forbs and so forth. LaDana thought the other wording would help people understand they needed a variety. This was one of the problems that the planners saw. Christi forwarded Patty's suggestion to say native plant species that vary in

height, age and composition, where grass should not constitute [inaudible]. Christi relayed that Andrew from the Center for Native Plants thought ‘cultural’ should be added as another component after ‘biological and aesthetic’ in the first sentence. She gave bitterroots and sunflowers as examples. These were flowers that had uses to people.

Steve said they were dealing with a zone that went 20’ landward and 20’ waterward, except for the reservation. It was important to think about aquatic vegetation as they were doing this. If someone bought property that had aquatic vegetation, they would be tempted to remove it. Maybe it should be removed if it was invasive and not native or not natural, but in other cases it might be part of the natural plant growth. He didn’t know if that was reflected in this, but they shouldn’t forget about aquatic vegetation.

Christi returned to the definitions, and highlighted the comments from Monica Pokorny (see attachments to minutes in the January 2012 meeting file for handouts received during the meeting).

Regarding new lawns, LaDana asked if it was a policy or if it should go in the regulation portion. People agreed it wasn’t a definition. LaDana mentioned grandfathered situations. Steve referred to where it said that grandfathered lawns may not be treated with chemicals, fertilizers, pesticides and so on. He thought that sentence belonged in policy: vegetation shall consist of ... and definitely did not consist of [inaudible]. Christi thought that was done in E, which could be moved up to be a second paragraph in section A (Policy).

LaDana asked for comments in section E, which would be moved up. Christi noted that native plants do establish quickly; they don’t mature quickly. She also referred to the mention of a deeper root zone [inaudible]. Steve wondered about the deeper root zone. There were native grasses. He thought they were trying to go for a variety of root depth, and there should be some shallow rooted plants in a good buffer zone, but not only shallow rooted plants. LaDana thought a deeper-rooted plant would have some shallow roots too. Steve thought some of the native plants wouldn’t have deep roots. Christi said mowing was the biggest factor. You could mow anything, and it would get shallower roots. Some people she spoke with had questions on the definition of lawn; anything mowed was lawn. LaDana explained the reasoning for the definition was to give some idea of what was being talked about. This was typically what you’d see as a lawn or what people would consider as a lawn. Some kind of example was needed. Rick Cothorn asked if you mowed it, was it a lawn. Christi said that was what the Flathead Conservation District used. LaDana pointed out there were sometimes things you’d want to mow down at some point to get growth started again, like shrubs or ground cover. Rick gave the example of the 2 acres of knapweed adjacent to their property. LaDana didn’t know how cutting some things, like a native grass, to stimulate growth would fit in, if it were called a lawn. Christi thought she misspoke. She referred to Monica’s comments on the definition of lawn as given on the handout of her comments.

After the first sentence in section E, Christi suggested inserting a sentence from the Montana Native Plant Society definition. Jerry liked the earlier comment that a plant may be adapted to a particular location.

LaDana reiterated that sections might need to move around. She relayed that Tiffany described the other lakeshore sections as having a pattern that's been followed with policy and design standards but that maybe the vegetation management section and the BMP [Best Management Practices] section might need to be on their own as far as setup, in their own little section. The sections [in the draft] are a starting point. Joel added they've talked internally about how tips and pointers occur in section E and elsewhere, such as where to get native plant species lists. They've talked about possibly having a box where different tips on different pages might appear in the final set of regulations. These would be clearly tips, not regulatory, to offer some ideas. LaDana said some of the things currently in the regulations could be moved to such boxes in the final regulations. Christi said the Flathead Lakers were making little boxes, which might save you some trouble. They called them the best management practices toolkit. LaDana described that they were thinking of little blurbs that could go right in the regulations, a little thing that would catch your attention when reading through the regulations.

On section E, and pertaining to the entire regulations, Steve wondered what activities required a permit and which did not. LaDana said that's been a struggle. She and Joel hoped the Board would provide some guidance on this, especially since they were landowners. What would they want to see a permit required for? Steve thought there could be regulations that require people to do a good job taking care of their buffer zone, but allows them to do some of that maintenance and improvement without having to get a permit every time they wanted to plant a new plant. He asked if other sections allowed people to do some maintenance on some part of their lakeshore development without having to get a permit, such as painting or moving rock. Joel affirmed that some things had been discussed. Steve wondered if there could be a buffer zone maintenance section that spelled out what people could do without getting a permit.

Steve visualized a scenario where an owner wanted to revegetate a section of the property that was lawn. This was something he and his wife started to do several years ago. He read through the regulations and found a lot about taking vegetation out, but not about putting plants in. They improved the soil and started moving native plants from another part of the property. Some of the replanting was successful. Other plants died. If a permit had been required, and the permit period ended before it was all established, and he wanted to move a few more plants the next spring, would he have needed another permit? He thought some of this would cause people avoid the process, ignore the rules and do it anyway, if the freedom to do some of these things without a permit was lacking. He thought they could allow people to do some of these things without a permit, but still require people to follow the rules.

LaDana noted that she and Joel struggled with how much could you do without requiring a permit. What if someone did the maximum allowed by the regulations today, and then did the maximum again tomorrow? At what point would a permit be needed? She relayed Tiffany's suggestion that if they were pruning and planting and it was native vegetation and complied with the regulations, maybe it should be allowed without a permit. But if it involved grading or required machinery, something beyond minimal activities, then it would need a permit.

Steve thought as far as buffer maintenance, things that might not require a permit included trimming and pruning, which possibly improved the health of the plants, removal of invasive plants (weed pulling), and removal of thatch and weeds. He was at a fall conference where they

talked about buffer zone maintenance. To continue to make a buffer zone effective, the removal of invasive plants and the removal of thatch were both required. That might depend on the type of buffer zone. Christi pointed out that 'buffer zone' wasn't in the regulations. It could be confusing to landowners to start talking about a buffer. She took the regulations to mean that if there were a lakeshore permit, then they would have to comply with the vegetation management. If they were doing something else on the lakeshore, then they would have to comply with this. LaDana agreed that this was the thought, but if they were just doing vegetation activities maybe that would require a permit. Christi thought it needed to be spelled out. If the group wanted to have a buffer section, then they would need to describe the function of a buffer and the maintenance. Maybe if someone established a buffer, they wouldn't need a permit, or they might need a permit for the establishment of a buffer since that would represent site disturbance that could cause soil erosion and runoff. They could get a permit but perhaps there would be some incentive for establishing a buffer.

Bob asked if a permit would be needed for the scenario that Steve presented earlier. Christi didn't think so. Bob asked about section K. Was that applicable to what Steve would have been doing? He read the first sentence of section K. LaDana said if he were submitting an application, he would have to jump through those hoops. If he wanted to go down there and prune and plant some trees, he could probably do a simple plan, showing the planners what he wanted to do.

Christi mentioned in Wisconsin, they used the term disturbance threshold. Mike thought they could look at the percentage of disturbed area for a project like Steve's. If the area was low enough, he wouldn't have to have a permit. LaDana asked what the number would be. Mike didn't know. There were percentages on other things, such as dock maintenance. LaDana said that was the problem—where do we draw the line? People wanted to know what they could do. It's difficult for the planners when they had to work in a grey area. It would be nice to say 'you can do this' or 'you can't do this' and everyone would know what they can or can't do. Mike said it would take a little research to figure out what the percentage would be. Then you would have a finite size. LaDana asked if you could do that percentage today and then again tomorrow. Christi said it would be annual. LaDana asked how the planners would know that they did 25% this year, and then 25% next year. Mike asked how it was known with dock repairs or maintenance, where there was a percentage. People got away with building whole structures by doing that. There was a loophole, for sure. Christi said the regulations had to be a little bit flexible. A restoration [inaudible] took more than one year. To really establish a buffer, you had to see what plants died and which ones needed to be put in the next year. LaDana said maybe a longer time period should be written into their permit.

Christi said it was disturbance they were after [for permitting]. If you pulled out 30 feet by 185 feet of lawn, that would leave a lot of soil disturbed. Where would it go in a rainfall? That was why a permit was needed. Bob asked if that was already in place. Christi said the only regulation was the section LaDana read in the beginning. Bob asked about the heavy equipment. LaDana said if someone had machinery down there, he'd need a permit in the current regulations. Christi suggested that the threshold might be the use of machinery. Bob didn't think you could regulate people to every little thing. He thought people needed to be given credit for some intelligence. On big projects, they had to get permits. Someone wouldn't go down

with a shovel and remove that much lawn. Mike thought they were trying to define what's big, and where that cutoff was. Christi said you wanted some oversight. If you had steep slopes on your property, and you were moving a plant from one spot to another, you'd be digging roots out. Bob thought this was a long-term process of education. You started with the little things that the Lakers were doing, and people start to understand it, like wearing a seatbelt. It would take a period of time. He thought someone could call and be educated by receiving information, and be able to go ahead and do [certain projects] as a responsible citizen, rather than having to get permits and jump through hoops to clean something up. Jerry suggested having the book with native species at nurseries, and [the book] would tell them how to do it, and they could put it in.

Janet mentioned that for stormwater management, you needed a permit if you were disturbing more than an acre. You'd need to find the percentage or amount for needing a permit for less than an acre. Joel asked about tree canopy. Christi noted that with land adjacent to water, that any disturbance would get into the water. Any runoff would be a pollution violation. LaDana pointed out that some of the big projects, especially the violation ones, were where people ripped the vegetation off the lakeshore and there's nothing there. They haven't put up BMP's. In the current regulations there's no vegetation management or direction. Christi reiterated Bob's comment that's it an education process. It would be tough to figure out what needed permitting and what didn't. Sometimes there were incentives.

On the situations that LaDana spoke about, Karl added that sometimes people came in to disturb a little bit of soil. When it was all done, their entire shoreline was affected. It was better for them to ask. LaDana asked what this [inaudible] was going to be, instead of letting [the owner] decide and coming in later to ask forgiveness and having a mess to clean up. Christi proposed researching this, and moving on for now.

LaDana noted the projects could be at extremes. What would the Board, as landowners, want? Bob said if there were some kind of heavy equipment or excavation, it automatically would need a permit. He thought lawnmowers might be an exception. LaDana said it would need a permit anyway. LaDana asked about the ambitious person who might decide to clean off his lakeshore with a shovel. Steve said the important thing was to have regulations to follow. People needed to follow the regulations whether their project required a permit or not. Bob agreed. He asked what the penalty was for not getting a permit. Joel said it could be \$500 per violation. After-the-fact permitting was a double permit fee. Bob asked what prevented putting some meat into that and raising the fee to \$5000. LaDana replied state law. Robert added there was a potential for 30 days in the county jail.

Christi said it might be useful to look at permit incentives. For example, there was a county where if people were going to vegetate with native plants, the permit application was waived. Steve thought for this kind of project, it didn't require a special kind of evaluation. If someone was trying to revegetate and improve their lakeshore protection zone, they should get a break on the permit cost. Robert cautioned that different people have different ideas on what was improved or what looked better. He put forth for comment that there had to be a certain amount of equity. If you disturbed a portion of the lakeshore for a dock, should the lakeshore disturbance then be different for vegetation or equal? It was something to be aware of.

LaDana showed a picture that showed the various extremes for vegetation along the lake. She pointed out which they were seeing more of, and which they saw less of, currently. It illustrated what you were looking at when you were out on the lake, which wasn't natural any more, and why the vegetative section was important.

Steve thought one challenge with the lakeshore regulations was they were different from zoning regulations. Some zoning regulations talked about buffer zones. If you were in an "unzoned area", a lot of people ignored the regulations, beyond docks, so to try to indicate to them that guidance and regulations existed in the lakeshore regulations that applied to them whether they're in a "zoned area" or not, and whether they're putting in a dock or not, or a seawall or not.

Jerry checked that the purpose of the native vegetation was to reduce runoff and to filter. LaDana replied that the purposes were seen under the policy section, and there were a few other things that Tiffany had suggested they add, and wildlife habitat too. Jerry said you were trying to control the runoff and trying to control particulate matter going into the lake. If you did that using native vegetation, you were doing great.

Christi said you needed 30 feet. In some case 12 feet was okay. You could have impervious surface on half of that the way the regulations were written now. Jerry referred to whether it worked, and not putting dirt, thatch, and leave in [the lake]. You might possibly want to spread your 25% off around the lakeshore. Steve said the other problem with a percentage was that if it was 25%, you could divide the 20-foot buffer into 5-foot strips. If someone worked on the 5-foot strip closest to the water, it was an entirely different issue than working on the strip back furthest from the water. Even with a percentage, there would be a question as to where that 25% was, and whether or not it would be more serious to control and possibly need a permit. He could see requiring a permit at some level for new development, new vegetation, changing the vegetation and that kind of thing. Maintenance of the vegetation, if the group could define that, should be allowed without a permit.

Joel pointed out that a large part of the permit review was verifying that these projects did comply. The planners had to know where they're at when they began the project to be sure that they complied when they're done. LaDana added that was part of the reason for a permit. Steve said if the plan was well done, you might avoid a fee. Bob thought that in the dock section, if a storm came through and boards washed off the dock, you had to wait to get a permit to replace the boards. He didn't believe people in the real world did that. He thought the same thing would be true of maintenance of the zone.

Christi mentioned the vegetation protection plan and/or vegetation design plan in section K. It could just be a vegetation maintenance plan. LaDana said that Tiffany mentioned this as well; it seemed more logical to have one plan rather than two. Christi said you might need the permit initially, but the plan would carry a person through the maintenance and they wouldn't need recurring permits. Jerry said no gasoline-powered equipment on the lakeshore zone. For consistency, Christi suggested changing 'removal' in section B to 'alteration', which was used in section K.

LaDana explained they'd like to see no net loss of vegetation, especially in properties that have very little native vegetation or vegetation of some sort. The difficulty was you had to have some net loss for doing something like creating a view corridor. What thoughts might the group have on this? Christi said if you were talking about biomass, which might be replacing trees with shrubs, you would have a loss of biomass, but you might not have a loss of cover. If you put a square over it, you may have more density instead of less. LaDana thought it was the no loss of cover that they wanted. She asked if they needed to add 'no net loss' somewhere in section B.2. Joel didn't think so. If you had an overgrown lakeshore protection zone, no net loss would be unhealthy for the lakeshore zone. Mike said from a forestry perspective, if you had a net loss, you might possibly improve not only trees, but also much of the ground cover which would be getting more sunlight.

LaDana asked how they would suggest dealing with the person with the earlier picture. There were only 4 trees, and the owner wanted to cut one down because it was diseased. Christi read a recommendation from Andrew Phelps for B.2. She appended 'with vegetation that maintains or strengthens the overall integrity of the shoreline vegetation' to the first sentence. She added that you could say shoreline ecosystem or habitat. She encouraged more use of 'habitat' in the regulations. Mike thought if you were removing something that was diseased, it wouldn't necessarily have to be replaced to improve the overall health. LaDana agreed, but what if there were only 5 trees there to begin with? Christi suggested saying something about in a way to obtain or strengthen the overall. Steve noted the wording didn't say that it had to be replaced with exactly the same thing you removed. The fact that the picture showed lawn around the trees, one suggestion might be to plant some bushes. In the same respect, if someone had a very natural zone with 5 trees in it, and one is diseased, they could possibly take that tree out without hurting anything. Lita asked if you'd need a permit to take out the diseased tree, since you'd probably be using a gas-powered chain saw. Steve affirmed.

In B.2, Steve said every spring the driftwood from the river washed up on the shore and had to be dealt with. Sometimes it was significant. People spent 2 or 3 weekends a spring dealing with it. Sometimes there were big logs. How would that fit in here? LaDana said they were thinking more along the lines of vegetation on the lot or in the water rather than things washing in. LaDana asked if that would fall under section B.9: other projects that may be allowed on a case-by-case basis. Steve thought they'd get a lot of phone calls, then. Also, sometimes you thought you had it cleaned up, and then more washed in. Sometimes there were so many there wasn't room to put them up along the gravel to help protect the wave action. He and his wife did a variety of things.

Christi thought that could confuse applicants since it wasn't talking about terrestrial vegetation. She thought even the aquatic vegetation that was mentioned earlier needed to go in a different section. It talked about the lakebed, and would not be applicable to people inside the reservation, even though the aquatic vegetation and what's happening in the lakebed are both relevant. Steve thought on Lake Mary Ronan and Swan Lake, there was a lot more aquatic vegetation. Helping those people understand what to do with those issues couldn't be ignored. He hoped they didn't have to have a different set of regulations for each lake. Christi suggested that perhaps there could be a different subsection for lakebed activities or aquatic activities, or something like that. Joel put forth the label of transient vegetation domain.

Christi asked about more lakes being regulated. Steve said that could happen if they changed the size. Christi relayed that Patty Mason at the Flathead Conservation District asked why floodplain wasn't mentioned more. Would you take stuff out of the lakebed, or out of the floodplain? Would you leave it in the floodplain? That would affect those other small lakes.

Bob said he was still confused on B.2. You cut down a big yellow pine because it was dead or diseased. You already had a natural vegetative buffer, as shown in the first picture. The stump can't be ground. Did you have to replace what was cut down with a shrub or something somewhere else? LaDana agreed that this was the question. Did [the group] think it should be replaced? Should this be on a case-by-case basis? Bob thought it should be on a case-by-case basis. LaDana said if someone had a perfectly good buffer already, maybe they didn't need to put in another tree. Steve thought the process was in section K. If someone had a dead or dying tree in the lakeshore protection zone, they would come in with a couple of photographs and a plan. The plan may be that they had great vegetation and shrubs in there already, and the answer on whether they had to replace the tree might be no. Other people came in with a lawn, and in that situation they would need to plant another tree in another location, or they could plant some bushes in these different locations, and together the staff and landowner would come up with a plan. That would be the basis of the permit to remove the tree. Christi said that then in section 2, you would strike the language 'if it is to be replaced as part of the project' and you could say 'if it is to be part of the vegetation maintenance plan in section K'.

Bob asked Mike about removal of a big yellow pine in the lakeshore protection zone. There was a nice buffer area, a yard and a house, and the tree couldn't be tipped back on the yard, so it had to be climbed and taken down in sections. How did you remove the chunks from the zone? Mike said they could be wrestled out by hand, or cut into smaller pieces or you could get a machine in there. That might be the difference in whether they needed a permit or not.

Mike thought they were on the right track. It seemed like there were two different scenarios. If you were cutting down that tree as part of a fuel reduction project on a completely wooded area, you probably didn't need to replace it. If it was 1 of 4 or 5 and a lawn, then you should replace it. Jerry asked how much replacement was required in terms of actual wooden matter. LaDana and Mike didn't think you wanted to get into that. Jerry said if you had the opportunity, you'd replace one big pine tree for half of a front yard revegetated with bushes. LaDana said it was part of their plan. Mike said he wasn't educated enough to know on the water filtration and so forth what the tradeoff was for a big yellow pine root system versus some other native vegetation. Jerry said you might have an opportunity in these regulations for something with lawn and 3 trees, for instance, if one tree went away, to get an amount of vegetative matter that in some way replaced or went towards replacing the amount of woody matter that was in the tree.

LaDana thought that would be a tough sell. They might be able to get a one to one ratio, where if you take a tree out, you put a tree in, or a shrub. She didn't know that they could say that if you take a tree out, you put 5 shrubs in. She referred back to the example where it was very difficult to get a landowner to put anything in. She thought it was good if they could get one of something in, and didn't think they should micromanage what it was that the something was going to be.

Jerry said the objective was to revegetate properties such as had been shown earlier. LaDana responded that adding one tree wouldn't be revegetating it. How would we make him put in 5 when he only cut one down? He might decide to leave his dead tree there and not plant anything. Steve thought you had to accept that someone might choose to leave the dead tree.

Bob said the point was to have the conversation. You were trying to get the people to come in and have the conversation, and start thinking about it. It could be set up so people had to come in and have a discussion, where the planners could say what they'd like to see happen and ask what the people wanted to see happen. Jerry added that if the people go in a certain direction, maybe they wouldn't have a permit fee. Bob said maybe if the people expanded the buffer strip, there might not be a permit fee. LaDana pointed out that some fees were needed to fund the department, so some balance would be called for.

Steve asked if there were an opportunity in the fee part of the regulations to look at the different activities for which people were asking for permits. A seawall with a concrete sidewalk would have a high fee. If someone wanted to replace their lawn with a variety of native plants, that should have a low permit fee. It didn't mean the net income of the department would go down. He didn't know what freedom the planners had in setting the fee structure. He suggested trying to reward the people who were doing things that were healthy for the lakes and streams, and make sure that people paid the real cost of what they wanted to do, when in fact it might have long term effect on their neighbors and future generations.

Bob thought once this stuff was established, they almost needed a business plan for how to 'sell' this, and how to get this information out. Steve said they'd owned their lakeshore property for 20-some years. There were a lot of activities in the new regulations for which no one [historically] got permits. To communicate to them the need for a permit and the reason, which is to do it right, would be a hard sell. Christi said they were doing this. [Flathead Lakers] were offering free site visits to lakeshore landowners. Those would continue for the next 2 ½ years. Bob asked how people knew about that. Christi said that was where they needed to work on their business plan. Members knew about it.

Rick asked if that service was exclusive to Flathead Lake. Christi affirmed. They had some requests on Swan Lake, but hadn't gotten up there yet. They were also developing BMP tool kit. One of the modules was on buffers. They would develop a water restoration plan for their grant [inaudible] that showed how they could take lawn and replace it with native vegetation and help water quality with no degradation. Bob asked how to get that plan out to people. Christi replied they had stakeholders. They would start with the Flathead Lakers Board. Beyond that, there were key people who were advocating for what these sorts of projects were, such as the Lake County Planners. She gave some examples. They were also would have a Living by Water workshop for lakeshore landowners this June. They were trying to take some of the burden for education off the Counties. That's why they partnered with the Counties. Education and outreach was a process where landowners didn't necessarily talk with a regulator first.

Janet suggested having posters at the greenhouses and at the boating shops and the like. Christi explained they had a steering committee. She recently met with Cheryl at Delaney's and gave

the flyers on Waterfront Landscapes. That was a start, but then she went onto Delaney's website and looked at the landscape services offered. What they showed were lawns and lakeshore. This was why they were having the contractor/ landscaper training class next April. She reported that Mike was going to Michigan next month to get certified in shoreline and shoreline protection.

Steve said it was good for the contractors to be involved so they would know when they needed to get a permit. Another place [for education] would be real estate offices and agents, and mortgage companies, so when properties changed hands, the new owners were informed as to what the regulations were. Christi said next summer they would start 'walk and talk' tours for landowners and realtors. They would visit the buffer scheduled to be installed next year. There were other buffers around that were lawn previously, such as Jack Stanford's house on the biostation property, which now looked completely natural. LaDana summarized that Christi was on top of getting the word out.

Christi returned to B.2. She asked to move B.7 to follow B.2 since they maybe fit together. LaDana relayed Tiffany's suggestion in B.7 to add in 'selective removal' or 'selectively removed' or something like that. Mike thought they had to look at how critical that one tree was, and what its function was. Was it holding a big chunk of lakeshore in place? If so, something had to be reestablished there. Or was it back at 19 feet? Its root system was helping, but how critical was that? This might be on a case-by-case basis as to what needed to be put back in place. LaDana said this would show up on their plan. Christi thought the word 'selective' would be in both B.2 and B.7.

The group touched on B.3 and then B.4. LaDana relayed that she and Tiffany spoke about the local fire departments and questioned what standards they might go from, when recommending defensible spaces. They thought possibly putting 'state or nationally recognized standards'. Steve highlighted that this was the lakeshore protection zone, so the structures here were boathouses and grandfathered structures. LaDana mentioned she was surprised when looking through photos at the number of houses that appeared to have guest houses right on top of their boathouses or in the lakeshore protection zone. She'd also mentioned to Tiffany that you probably would want to maintain defensible space around the boathouse, since there was potentially gas stored with the boat.

Jerry asked about the definition of defensible space. LaDana suggested going with the state or nationally recognized standards. Jerry said that Bigfork wanted 50 feet of cleared space. LaDana thought DNRC or something national would work better. Jerry felt if it was a boathouse or a pump house, get the gasoline out of there, or you're taking your risk, so no defensible space. If you put defensible space around every boathouse around the lake, you'd take out a lot of trees.

Steve wondered what the fire department would say about defensible space surrounding a non-dwelling. He thought it would be different. Janet used the term 'land structures', and specified dwelling structures. With defensible space, the recommendation was to have the firewood piled further than 30 feet from the house. You could have fire-resistant shrubs and fire-resistant species within that 30-foot zone. If you were on a slope the defensible space could be 100 feet, depending on the slope below your house. Then the crown spacing between pine trees and that type of thing was another thing to look at. She would say dwelling structures, since 30 to 100

feet with any kind of structure would be big. You wouldn't have to worry about the slope issue with boathouses as much, but 30 feet would be a huge space. She agreed that it should just be dwelling structures for the defensible space.

Mike spoke as a volunteer fire fighter. It was tough to do truly defensible space. You had rings of treated areas around a structure. On a lot of the smaller lakeshore properties, you didn't have the room to do that. It might be completely devoid of all vegetation, which was the opposite of what we were trying to do here. On the other hand, this scenario came up in Rollins a few years ago. A little boathouse caught on fire, then some Ponderosa pine trees caught that were above it, and then a sailboat caught on fire. It jumped from one crown to another, and then back to the house. LaDana said another thought was that there was dense development along some lakefront areas, and you didn't want a fire to get started there. Steve recalled that they made a decision to drop a couple of the burning trees towards the lake.

Christi suggested it would be interesting to see how fuel loading and fuel management was handled by Lake Tahoe regulations. They were really getting strict there about buffers. Jerry thought it would be interesting to see, and whether part of it was to not allow gasoline storage in boathouses. LaDana pointed out there would be fuel in the boat gas tank. Jerry replied you should get the boat out of there. Christi thought the fuel management section said no fuel storage [inaudible]. LaDana reiterated that the boat itself may have fuel in it, and a lot of the lakeshore property owners weren't there all the time and couldn't get their boat out. There were a lot of boathouses out there. Steve said the fire in Rollins started because the owner stored the gasoline for a lawnmower in that boathouse.

Mike thought it was a giant can of worms that you couldn't [inaudible] better, with local, state or national standards. He mentioned there were national standards called Firewise. He thought the physical property size limitations might [inaudible] a lot of those would be smaller lots, without adversely affecting what we were trying to do.

LaDana said maybe defensible space was something in a plan to look at on a case-by-case basis. Mike said you might try to get local fire departments involved, but most of the fire departments around the lake were volunteers, and it might be hit or miss on how much input you could get and on consistency. Someone commented that he didn't think we needed to get the local fire departments involved. Janet mentioned the Tribal fire fighters, who were paid and worked with the state on the regulations. Mike brought up the fuel reduction program available in Lake County where a forester was sent out to do Firewise assessment of a property. That was through Carey Cooley.

Jerry said there were also insurance companies. If we left it to the County Planning Dept. to decide when you couldn't have the fire protection zone because you wanted to have vegetation, and then there's a fire, whose responsibility would it be that no protection ring was around the boathouse? Mike said there were certainly things to do to improve defensible space than just remove vegetation. You could prune, and move ladder fuels, and replace junipers, which were highly flammable, with more resistant vegetation. Janet noted the state had a list of fire resistant vegetation. Christi added that the Tribes developed a brochure on native plants that were fire

resistant. Mike observed it sounded like the Tribe and then the foresters who work for Carey would both be excellent resources.

Bob thought this issue would have been addressed somewhere, between MN, WI and Lake Tahoe. He highlighted that we were dealing with a 20-foot zone, and if there was a 10-foot boathouse, how much defensible space could you get? He compared some of the dimensions to furniture dimensions in the room. How much defensible space could you get? LaDana mentioned there were structures already out there that were bigger than 10 feet, such as one she'd seen with a guest house above it. Bob said there was only so far that you could go. LaDana said that was true, as long as the lakeshore protection zone was only 20 feet. If we were to expand that number, this would be something to think about. Steve commented on the trimming of trees for view corridors. One thing to do to reduce fire hazard was to cut off the dead limbs off and remove the ladder fuels. One person might cut off lower limbs for view and another might have that recommendation to reduce fire hazard. He thought they should think about allowing people to do some pruning to reduce fire hazard.

LaDana moved to section C.5 and C.6, which tied to view corridors. She asked for thoughts on what would be acceptable as a view corridor. The thought behind it was that someone didn't clear his or her whole lakeshore in order to have a wonderful view of the lake, ending up with a grass lawn scenario. Steve thought this was great, and that K could be mentioned. If someone wanted to improve their view, they ought to come in with a plan that showed how they would improve the view in a limited way, and maintain the quality of the lakeshore protection.

LaDana described that she used 25% or 30 feet. The percentage was there, thinking along the lines of the little lots. Steve thought people would complain. LaDana said that 30 feet seemed reasonable, given the size of some of the larger houses that has been permitted. She thought if they went with more, especially if it was a straight percentage, someone with 300 feet of lakeshore, for example, could clear off an awful lot.

Christi said if the trees were removed for the view shed, there would still be native plants replacing them. LaDana said that was the thought. Christi said people were used to the esthetic of lawn.

Mike thought they should avoid percentages, and say they needed to bring a plan in. In the plan evaluation, if the plan started to negatively affect the overall buffer, then they had to do something to mitigate that. They're also improving their fire hazard and potentially improving the leaf trees and other species. They might have an overall positive effect, even though they exceed some of the number here.

LaDana described that C.6 was strictly for a view corridor. You could still do the other things that Mike spoke of. Mike said that just by doing the view corridor, they could do these other things. Steve said they could look over the top of the bushes.

Steve thought the 30 feet needed definition. Was this intended as continuous? LaDana affirmed. Steve felt there were other ways to calculate 30 feet, and it needed to be clear. Joel pointed out that this section referred to clearing. LaDana said you weren't clearing the ground cover. Christi

said it was more pruning to maintain a view. She mentioned getting used to the esthetic of seeing the lake through the trees. Clearing a view corridor could be pruning. Mike said you could see a limited view corridor, rather than cutting a tree down. For a 30-foot space, there were lots of big trees out there with a canopy crown size that was 30 feet in diameter. He thought it should be evaluated to see if they would start negatively impacting a functioning buffer there. LaDana said the hardness there was when someone came in, how did they distinguish it?

Christi suggested removing the first sentence, and have it read, "Where trees are to be removed or trimmed for view shed purposes, they shall be replaced with a variety of native plants as provided in the vegetation maintenance plan, section K." Steve said if they wanted to take out trees to improve the view, they would need to come in with a plan to get an application. Bob didn't think they should limit people as long as they replaced the trees that they take out with a vegetative strip. It seemed like a catch-22 on a number of issues. They would cut the trees down and improve the life of everything underneath it. On the lawn, you'd get more sun and water it more, so you had more water going into the lake, which had a catch-22. Plus, people were paying a lot of money for the lakeshore. It wasn't just looking at the lake; people looked at the mountains too. If you said you have to leave 2/3 of the tree when you pruned it, people would likely snip the tree off. The view shed was both the lake and the mountains. That's why they'd take the trees out. If we're trying to maintain the buffer strip, so be it. They'd take the trees out. That was part of the enjoyment of the property. He was hearing the buffer strip still functioned without the trees. Christi said yes and no. It needed variety and diversity. Bob said they couldn't clear-cut it all. They could take more than 30 feet.

LaDana said maybe they would plant trees someplace else. That's why the planners were thinking they were creating a little corridor area. They didn't want them to cut down the whole front of the lot and just have ground cover. Bob thought they had to be careful. If someone came in with a bunch of money, and was about to buy a property, and found out there were too many restrictions, the buyer might go elsewhere. That trickled down economically also. They were here to protect the lake, but at the same time, there were other factors.

LaDana said that they were improving things since currently there was really not anything in the regulations. Bob thought this was great. Christi said it sounded like the mechanism was plans. Bob thought an example was the 30 feet. He didn't know if that was a good thing. Janet thought the point was you didn't want to take out the entire tree canopy because a lot of the riparian species needed shade and would die without it. That's why a plan was important. It really was a case-by-case basis.

Steve asked if they could take out the 25% and the 30 feet, and say something about a reasonable accommodation for view without compromising the variety of vegetation, or say something like that. Joel explained that they still needed to maintain something with teeth, a place to draw the line. Right now the regulations said 'this should be done' and 'this is recommended' which makes it difficult. They're trying to pin these things down and get something they could enforce. Steve said they did require a plan. Karl said that wasn't really defensible either. The planners' suggestion was based on policy incorporated into a plan. If they said, 'I don't want that [inaudible] so concrete figures were needed.' Maybe 30 wasn't the right number. LaDana

explained she picked a number that seemed kind of reasonable with projects they'd seen come through, that would give them something without giving them the whole lakeshore.

Bob said it seemed like property varied so much around this lake. It seemed like it would almost have to be case-by-case. He was curious if there were a mechanism so when the owners came to Planning, they would have to hire someone like Christi to go out and help with the plan. LaDana said that ran into problems too. They're spending money on the permit, on the contractor and now on someone to do a plan. Lita mentioned there was also a time factor for every plan added, which could be a concern for those doing projects. Jerry said they required a scaled model or plan already. You were pointing them in that direction. If someone spent several million dollars for the location, they would have someone to plant every petunia. Were an inordinate number of requirements being put on the big people? He wasn't sure that they were. Maybe you had the 30 feet or the 25%, and if someone wanted 50%, then they had to do mitigation not just on the shoreline but elsewhere on their property. If there's more watering on the lawn, maybe a water garden needed to be put in as part of it. If you wanted to do 50% thinning, there's the benefit of the fire protection, but they'd also have to water the lawn more or [inaudible] water garden or other features.

LaDana asked how they would regulate that if it were outside the lakeshore protection zone. There's the 20 feet to work in. They couldn't necessarily make people put trees 30 feet from the lake, even though that was where the trees were really needed. Jerry asked why they couldn't. LaDana replied it was outside of the lakeshore protection zone. Jerry said you weren't regulating the lakeshore protection zone when you told them to put trees elsewhere. What you'd be saying was if you want to do this in the lakeshore protection zone, which exceeded the average that could be put into the plan, it would be allowed in exchange for certain other things that would be outside the lakeshore protection zone that would help enhance the lakeshore protection zone. LaDana thought it was a good idea, but it would be a tough sell to the landowner. Joel highlighted that Jerry spoke of someone who was asking for special consideration. Janet said it was mitigation. Christi thought this had been applied most in wetlands. It was a huge legal can of worms. She wouldn't want to put that onto the County. Jerry referred to an overall property plan.

Bob suggested that they eliminate C.5, and said something about the removal of trees for view shed purposes was reviewed on a case-by-case basis. LaDana asked if the person buying the million-dollar property had to have a full-blown plan. The realtor for the people buying the property might pick up a set of regulations for them, which they might flip through. Someone buying the property might not know what they wanted to do with it, but they wanted to know that they could do something with it. If there's a number there, the person could say whether or not it would work for them. Janet asked about variances. LaDana said they should have known this buying the property, so what would be the hardship?

In the view corridor section, Steve suggested saying that a view could be developed by pruning a tree up to 2/3 of its height, or by removing ladder fuels, or by making sure that you've got a spot with lower shrubs you can see over and higher tree canopies that you can see under. There were lots of ways to develop view. If you needed more view than that, then with a plan, you could take out trees to open the canopy up, so there was at most a 30-foot or 25% gap between

canopies. Joel thought that this was what it said. LaDana thought it would be 30-foot canopy period. Joel highlighted C.4 through C.6. Steve said it wasn't clear to him that they were clearing just the canopy here, but it was, in C.6. Joel said it was trees. Steve continued that they were talking about the distance between the crowns of the trees, not distance between the centers or the trunks of the trees. LaDana said she was thinking just 30 feet. Joel emphasized the 30-foot corridor, a clear corridor, and everything else could be thinned or pruned.

Bob said if you were on a hillside, and you had a hundred-foot tree, you could only prune it up 30 feet. Others said you could prune $\frac{2}{3}$, rather than $\frac{1}{3}$. Mike said $\frac{1}{3}$ was acceptable at the top in C.4 rather than the $\frac{2}{3}$ [listed there], and others agreed. Christi suggested that instead of $\frac{1}{3}$ of an individual tree for the upper canopy that it read, "The pruning of tree branches is permitted provided that at least one-third of the upper live crown or canopy [inaudible] of an individual tree is maintained." Steve thought someone might come in and want to remove trees. If they could see under the canopies and over the bushes, then they wouldn't be allowed to take the trees out. Jerry said he got confused between thinning and clearing.

Steve asked if there was a possibility that someone did the pruning, removed ladder fuels and still didn't have the view they wanted, how would the 30 feet be measured? He checked that it would be measured from the tips of the branches of the tree left on the right side to the tips of the branches of the tree left on the left side. Planners nodded. Jerry asked at what level. Joel said the whole 30 feet. Christi said that was a good question. View sheds weren't necessarily horizontal. For stormwater purposes, trees did have more transpiration than other plants. It was forested indigenous plants communities. Regarding cost, there was a cost to the landowner if they didn't have a view. The cost of not preserving the buffer also needed to be shared, and that would be a huge water quality [issue] in there. LaDana noted that people used [the water] for a drinking water source. They might not have that anymore. Others mentioned fishing and swimming. Jerry checked on the drip line theory that someone could go out and trim his trees out $\frac{2}{3}$ of the way, and then the 30 feet would be from that drip line $\frac{2}{3}$ of the way out, or was it the drip line at the bottom. Joel said it was a corridor, so from one perspective, the 30 feet would have a corridor. Steve referred to a new drip line.

Steve thought there might be a better way to work this. He understood it was easier to say whether a plan worked or not if there were a number. LaDana pointed out it was easier for the person buying the lot to see whether or not they could do what they wanted. Otherwise, the person would have to develop a plan and bring it in—would he do this before buying the lot? Christi thought it sounded like you had to have a plan anyway. LaDana restated the example that a person was thinking about buying a lot, and was doing his homework (hopefully) and could figure that out and then make a decision on buying the lot.

Rick asked at what level the prosecutor's office was assisting with this. There was a lot of work and energy being done here. He guessed at some juncture, the prosecutor's office suit division would have to look at this since they would have to defend it. No matter how well crafted, when they got their hands on it, they'd have to touch it up some. Were they involved now? Joel replied no. These were the work sessions. Rick asked if they were being apprised of the end of work products being generated, or if they would get the final product from this group. Joel explained they would probably get a product before a final draft was released to this board. Rick

thought the sooner you could [inaudible] them, the quicker you could move forward. Having them look at a few things along the way might speed things up.

Bob returned to C.5. Was it confusing? Should it remain there or be taken out? Janet said she wasn't confused by it. Bob gave a scenario where you had a bunch of trees. You wanted to cut some down and thin others. Janet replied if you had a cluster of 10 trees, you could thin out 4 of them. Bob asked how that worked with the 30 feet. Janet didn't think that applied. If you wanted to completely clear a canopy zone, then it was 30 feet. You'd completely take the trees out. If you had a 30-foot wide cluster of 10 aspen, you could take out 4 of them. You weren't completely clearing the canopy. You were just thinning some of the trees in that stand. Bob checked that if he had ten fir trees within an area, he could take out a bunch of those. Janet said he could take out 4 of the 10, for thinning. Multiple discussions broke out. Robert thought they could come up with definitions for thinning versus clearing. Janet suggested some pictures would help also to see what thinning was.

Steve asked if there would be a single view corridor allowed, or could someone have multiple corridors. LaDana envisioned a single one. Joel agreed. Other than that, you'd be subject to the thinning requirements. Steve asked if someone had trees right in front of their house, but 30-foot gaps to the sides, were they allowed to do something with the canopy in front of the house. LaDana said they could thin, but they couldn't create another view corridor. Steve said in their estimate they might not perceive any view corridor. Karl said that might be a good opportunity to mitigate with tree planting. Joel thought that this was pretty good feedback on view corridors.

Christi asked if they were done with B.5 and view corridors, and on to B.6 (on eroding slopes). She suggested changing 'restored' to 'stabilized'. They'd already talked about moving B.7 up next to B.2.

On B.8, Christi thought 'or solarized' should be added. LaDana said if you were going to plant native grasses, for example, you might have to till the soil up to loosen it. It wasn't to kill weeds. Christi said that even for planting seeds, solarizing could prepare the soil. Steve thought it might be understood that it was okay to solarize. Christi said a neighbor wouldn't like a bunch of plastic over the ground. Jerry wasn't comfortable with 'cultivated or tilled' within the 20 feet. LaDana said sometimes it was needed, and it would be on a case-by-case basis. Jerry said you could use a rake and use a shovel. LaDana thought you might not be able to loosen it up enough, especially if there had been equipment driving over it, if they had a permit to work with equipment. She thought there might be cases where they'd need to do this. Jerry said his view was it wasn't allowed unless it was permitted. Steve suggested adding 'Although it should be discouraged, in special cases' to the beginning of B.8. Christi suggested just adding 'as long as BMP's' were in place to prevent runoff of exposed soil. LaDana agreed with that. She realized it wasn't ideal, and could see why you wouldn't like to have it there. There had been cases where something needed to be done to plant.

Joel noted they had covered most of one page, and addressed some various items on the other pages. Three of the four pages were left. Did the Board envisioning finishing tonight, or would they prefer to continue the item next month? Bob replied to continue the item next month. Joel directed members to keep their information.

Jerry commented on grass. Lawns could not be put in. For existing lawns would people be allowed to fertilize? LaDana replied no. That was written in there. Jerry checked that people weren't allowed to reseed a lawn. If that was the case, the lawn would die, without fertilization and reseeding. Steve pointed out he hadn't fertilized or [inaudible] their lawn in 22 years and it was still there. Janet said they let the grass clippings fertilize their lawn, and they didn't add seed. Steve added that they did water.

Regarding the pictures shown at the beginning of the meeting, Bob asked about the rocks and waves. If someone planted behind the rocks, what do you put down as a soil cover to protect them in a storm? Mike said that was what he was going to Michigan to find out, but there were some products, such as a roll-out matting. Some actually had plants in them so they established faster. The mat would disintegrate. Bob gave a scenario with big pines. The needles could get thick under there. He checked that you'd get the needles out of there and try to get some plant that would live under the tree. Christi said plants like knickknick that would do well. LaDana added that some plants that liked acidic soil would probably do very well. Bob shifted to a fire standpoint. LaDana said you might want to remove some of them. Christi said they did remind people not to burn the needles in the lakeshore buffer. Steve mentioned he had some bushes and Oregon grape that grew in a foot of the duff material. Mike said historically in the environment under the Ponderosa pine, the duff wouldn't be that thick, because a lot of low-intensity fire would come through and remove it. Moving it out periodically would be okay. LaDana said you'd want to leave some to add nutrients to the soil.

OTHER BUSINESS

Joel checked that the Board members had received Board handbooks. He mentioned that if ever a member left the Board, to please give them back, since they had to be purchased.

Motion made by Janet Camel, and seconded by Jerry d'Aquin, to adjourn. Motion carried, all in favor. Meeting adjourned at 9:30 pm.